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11 Board of Trustees of the Automotive Industries Welfare Fund, et. al.
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(OAKLAND DIVISION)

BOARD OF TRUSTEES OF THE
AUTOMOTIVE INDUSTRIES WELFARE
FUND, et al.,

Plaintiffs,

v.

CAPITOL EXPRESSWAY FORD,

Defendant.

AND RELATED COUNTERCLAIM.

Case No.: CV 09-04945 PJH

**STIPULATION RE ADR AND
WITHDRAWAL OF MOTION TO
DISMISS COUNTERCLAIM, AND
JOINT REQUEST FOR ORDER
CONTINUING CASE MANAGEMENT
CONFERENCE;
[PROPOSED] ORDER**

Date: May 12, 2011
Time: 2:00 p.m.
Judge: Hon. Phyllis J. Hamilton
Courtroom: 3, Third Floor

Plaintiffs and counterdefendants Board of Trustees of the Automotive Industries Welfare Fund, et al. ("the Trustees"), on the one hand, and defendant and counterclaimant Capitol Expressway Ford, on the other hand, stipulate as follows:

1. Defendant agrees to permit plaintiffs to conduct an audit of defendant's records from September 1, 2007 through the date of the audit, and the parties agree that they will then

- 1 participate in a mediation and attempt to settle this case. The parties will request that the ADR
- 2 unit set up a mediation session within 90 days.

3 2. In light of the pending audit and ADR proceeding, in order to conserve the
4 resources of the parties and the Court, the parties hereby stipulate that plaintiffs' and
5 counterdefendants' Motion to Dismiss Counterclaims and to Strike Affirmative Defenses filed on
6 April 15, 2011 (Dckt No. 46) be withdrawn subject to re-filing if the case does not settle, and that
7 the time for re-filing the motion or filing a responsive pleading is extended to and including July
8 27, 2011. Accordingly, plaintiffs hereby withdraw their Motion to Dismiss Counterclaims and to
9 Strike Affirmative Defenses.

10 3. The parties request an order that Case Management Conference currently set for
11 May 12, 2011, be continued to Thursday, September 8, 2011, or to such other date as the Court
12 may deem appropriate.

13 Date: April 28, 2011 SALTZMAN & JOHNSON LAW CORPORATION

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15 By: _____ /S/
16 Anne M. Bevington
Attorneys for Plaintiffs and Counterdefendants

17 Date: April 28, 2011 FINE, BOGGS & PERKINS LLP

19 By: _____ /S/
20 Michael K. Perkins
Attorneys for Defendant and Counterclaimant

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ORDER

The parties having stipulated, and good cause appearing therefor,

3 IT IS HEREBY ORDERED that the Case Management Conference, currently set for
4 May 12, 2011, be continued to September 8, 2011, at 2:00 p.m., in Courtroom 3, Third Floor,
5 1301 Clay Street, Oakland, California. The case is referred to mediation to be completed within
6 90 days.

6 IT IS SO ORDERED.

7 | Dated: 4/29/11